

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

Clerk's Minutes
Before the Honorable David Herrera Urias

CASE NO. 22-CR-365

DATE: 01/16/2024 – 01/19/2024

TITLE: *USA v. Ruiz*

COURTROOM CLERK: J. Gonzales/A. Buena/C. Reed-Guevara/ L. Hofstra

COURT REPORTER: C. McAlister

COURT IN SESSION:

1/16/24: 8:43 AM – 9:47AM; 10:13 AM – 11:40 AM; 12:05 PM – 1:48 PM; 2:17 PM – 5:05 PM

1/17/24: 8:45 AM – 10:15 AM; 10:37 AM – 11:17 AM; 11:34 AM – 12:25 PM; 1:53 PM – 3:21 PM; 3:43 PM – 5:00 PM

1/18/24: 9:18 AM – 11:46 AM; 1:11 PM – 2:52 PM; 4:38 PM – 4:51 PM

1/19/24: 2:08 PM - 2:31 PM; 4:55 PM – 5:03 PM

TOTAL TIME: 18 HRS AND 3 MINS

TYPE OF PROCEEDING: TRIAL

ATTORNEYS PRESENT FOR PLAINTIFF(S): **ATTORNEYS PRESENT FOR DEFENDANT(S):**

Caitlin Dillon; Matthew McGinley

Emily Carey; Noah Gelb

PROCEEDINGS:

January 16, 2024

[TOTAL TIME: 7hrs and 2 mins]

[Interpreters: Humberto Urive, Teresa C. Salazar]

8:43 AM: The Court calls the case.

Counsel enter their appearances. Interpreters enter their appearances. The Court discusses logistical matters (breaks, lunch, etc.), the amended witness list, and pending objections. Defense states objections to the Government's amended witness list and exhibits. The Government responds. Defense replies. The Court questions the parties. Parties respond. The Court rules on the motions.

9:30 AM: The Court discusses voir dire and preliminary instructions. The parties discuss the proposed statement of the case. Discussion re: indictment. The Court reserves ruling on some issues.

9:47 AM: The Court takes a short recess.

10:13 AM: Court back in session.

The jury pool is brought in. The jury pool and the interpreters are sworn in. The Court provides the jury with voir dire instructions. The Court questions the jury pool.

10:45 AM: The Government begins voir dire.

11:37 AM: The jury pool is excused for a break. The jury pool leaves.

11:40 AM: Court is in recess until 12:00 pm.

12:05 PM: Court back in session.

The jury pool is brought in. Defense conducts voir dire.

1:02 PM: The Court excuses the jury pool for lunch and provides potential jurors with the opportunity to stay in the courtroom for private conferences. The Court asks jurors to return by 2:15 PM.

1:05 PM-1:14 PM: Private conferences with members of the jury pool.

1:14 PM: Court discusses for cause strikes with the Defense and Government.

1:48 PM: Court is in recess until 2:10pm.

2:17 PM: Court is back in session.

The Court discusses preemptory strikes with the Defense and Government. Jury alternates are chosen.

2:42 PM: Jury pool brought back in.

2:52 PM: Jury empaneled and sworn in.

2:55 PM: Court reads the preliminary instructions.

3:04 PM: Government gives opening statement.

3:09 PM: Defense gives opening statement.

3:25 PM: Government calls their first witness and witness is sworn in.

4:22 PM: Defense begins their cross examination.

4:55 PM: Defense ends cross examination.

5:03 PM: Court releases the jury.

5:05 PM: Court recesses.

January 17, 2024

[TOTAL TIME: 6hr and 6 mins]

[Interpreters: Humberto Urive, Teresa C. Salazar]

8:45 am: Court back in session.

The Court addresses the parties re: juror issue and potentially excusing a juror. Defendant does not object. The Government requests the Court voir dire the juror on the record. The juror is brought in. The Court questions the juror. The Court then addresses the parties. The Court releases the juror.

The Government addresses the Court re: the order of witnesses.

The Court addresses the parties re: Jane Doe 1's testimony. Ms. Carey presents argument. Mr. McGinley presents response. The Court rules re: scope of Jane Doe 1's testimony.

The jury is brought in.

The Government conducts re-direct examination of Investigator Rome Wager.

The Court excuses Investigator Wager.

The Government calls Jane Doe 2. The witness is sworn.

Ms. Dillon conducts direct examination of Jane Doe 2.

Ms. Carey conducts cross-examination of Jane Doe 2.

Ms. Dillon conducts re-direct examination of Jane Doe 2.

The Government requests to reserve Jane Doe 2 in case of rebuttal.

Jane Doe 2 leaves the witness stand.

10:14 am: The jury leaves. The Court cautions the jury.

10:15 am: The Court is in recess until 10:35 am.

10:37 am: Court back in session.

The jury is brought in.

The Government calls Jane Doe 1. The witness is sworn.

Mr. McGinley conducts direct examination of Jane Doe 1.

Mr. Gelb conduct cross-examination of Jane Doe 1.

11:16 am: The jury is excused.

11:17 am: The Court is in recess until 11:30 am

11:34 am: The Court is back in session.

Mr. Gelb continues cross-examination of Jane Doe 1.

Mr. McGinely conducts re-direct examination of Jane Doe 1.

Jane Doe 1 leaves the stand. The Government requests Jane Doe 1 be subject to recall.

The Government calls Rosetta Cata. The witness is sworn.

Ms. Dillon conducts direct examination of Ms. Cata.

12:24 pm: The jury is excused.

12:25 pm: The Court is in recess. Court will be back in session at 1:45 pm.

1:53 pm: Court is back in session.

1:55 pm: Ms. Cata is brought back to the witness stand.

1:56 pm: Jury is brought in.

Defense conducts cross-examination.

2:15 Government redirect begins.

2:17 Witness is excused, subject to recall.

Government calls Special Agent Pierre Robert Himel. Witness is sworn.

Defense conducts cross-examination.

Government calls Kurt Sandoval, witness sworn in.

Government conducts direct examination.

No defense cross-examination.

3:18 Jury excused.

3:21 Court in recess.

3:43 Court back in session.

3:46 Jury brought back.

3:47 Government calls Patricia Leemhuis. Witness sworn in.

3:57 Defense does not cross examine.

3:58 Government rests.

4:01 Parties discuss jury instructions with the Court.

5:00 pm: Court is in recess.

January 18, 2024

[TOTAL TIME: 4 hrs and 23 mins]

[Interpreters: Humberto Urive, Teresa C. Salazar]

9:18 am: Court in session.

The Court and the parties discuss proposed jury instructions.

Defendant presents Rule 29 arguments. The Government responds. The Court questions the parties. The Court reserves ruling on the Rule 29 motion.

The jury is brought in.

Defendant calls Dr. Bradley McAuliff. The witness is sworn.

Ms. Carey conducts direct examination of Dr. McAuliff.

Defendant tenders Dr. McAuliff as an expert in children's suggestibility. The Government does not object as to his qualifications. The Court designates Dr. McAuliff as an expert in children's suggestibility.

Ms. Dillon conducts cross-examination of Dr. McAuliff.

Ms. Carey conducts re-direct examination of Dr. McAuliff.

The Court excuses Dr. McAuliff.

The Defense rests its case.

11:39 am: The Court excuses the jury until 1:00 pm.

11:46 am: The Court is in recess until 12:45 pm.

1:11pm: The Court is back in session.

The Court issues its ruling on Defendant's Rule 29 motion. Motion denied.

The Court again discusses jury instructions with the parties. The Government and Defense agree to jury instructions.

1:22 – 1:45 pm The jury walks in. The Court reads jury instructions.

The parties present closing arguments.

2:51 pm: Jurors excused to begin deliberation.

2:53 pm: Recess

4:38 pm: Court back in session.

The Court addresses a jury question with the parties.

4:45 pm: Response is sent back to the jury.

The Court asks whether the parties want to excuse the jury so that they may continue with deliberations today or tomorrow morning. The parties defer to the Court.

4:48 pm: The jury is brought in. The jury asks to be excused.

4:50 pm: The jury is excused and is asked to return by 9:00am.

4:51 pm: Court in recess.

Friday, January 19, 2024

[TOTAL TIME: 31mins]

[Interpreter: Melinda Gonzalez-Hibner and Humberto Orive]

2:08pm: The Court is in session.

2:09pm: The Court reads the jury note to the parties. Discussion re: providing the 10th Circuit pattern *Allen* instruction.

2:28 pm: Jury is brought in. The Court addresses jurors re: their note. The Court provides modified *Allen* instruction. Jurors return to deliberate.

2:31 pm: The Court addresses questions from the parties. Instructs parties to return to the court room at 4:45pm. The Court is in recess.

4:55 pm: Court is back in session.

There is a note that the jury reached a verdict.

4:58 pm: Jury walks in. Verdict form is published.

5:00 – 5:02 pm: Court polls the jury.

5:03pm: Jury excused. The Court informs Defendant re: next steps.

5:03pm: **RECESS.**

